



California Fair Political Practices Commission

July 27, 1989

Nanette H. Hoff
Counsel
FMC Corporation
Executive Offices
200 East Randolph Drive
Chicago, IL 60601

Re: Your Request for Advice
Our File No. A-89-404

Dear Ms. Hoff:

You have requested confirmation of telephone advice provided to you concerning the campaign provisions of the Political Reform Act (the "Act").^{1/}

Your letter, dated June 28, 1989, correctly summarizes my advice that the requirement contained in Section 85201(a), that a candidate establish a campaign contribution account at a financial institution located in California, does not pertain to a "general purpose recipient committee."

I also advised you that a general purpose recipient committee may choose to establish a separate non-candidate bank account to be used for administrative/overhead expenses. If a separate bank account is not established for non-candidate activities, the contribution limitations will apply to ALL funds raised by that committee.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

With regard to disclosure of contributions received, I advised you that Section 84211(f) requires that all contributions received from a single source aggregating \$100 or more during a calendar year are required to be itemized on the recipient committee campaign statement (Form 420). In addition, Regulation 18401(a) requires the treasurer of a committee to maintain recordkeeping information for each contribution and each expenditure of \$25 or more.

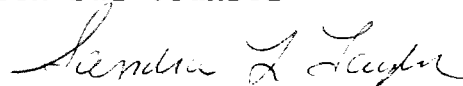
A recipient committee which uses only a portion of the money it receives for making contributions to or expenditures to support or oppose California candidates or ballot measures (e.g., a federal PAC) is required to report as "contributions received" only that portion of its receipts which is actually spent in connection with supporting or opposing California candidates or measures.

For example, if the committee receives \$100,000 in donor payments and contributes 10 percent, or \$10,000, to California candidates or committees, it will have received \$10,000 in contributions; and 10 percent of each donor's payment will be a "contribution" to the committee. Using this example, the committee must identify the name, address, occupation and employer of each person who paid a total of \$1,000 to the committee, because 10 percent of that person's payment equals \$100 to California candidates or committees. The threshold for internal recordkeeping begins when that portion of the donor payment used for making contributions to California candidates and committees is \$25.

For your convenience, a copy of your letter is enclosed. Please feel free to contact me at (916) 322-5662 if you have any questions.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Sandra L. Taylor
Political Reform Consultant

Enclosure

FMC Corporation

Legal Offices
100 East Broadway D
San Francisco, CA 94101
415 774 2000

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FMC

June 28, 1989

Sandra Taylor
California Fair Political Practices Commission
428 J Street
Sacramento, CA 95814

Re: Political Reform Act--Recordkeeping and Disclosure

Dear Ms. Taylor:

I wanted to confirm my understanding of our phone conversation last week regarding my questions on the new recordkeeping and reporting requirements under the amended California Political Reform Act (the "Act"). As I explained, FMC Corporation ("FMC") sponsors a federal political action committee, the FMC Corporation Good Government Program (the "PAC"), which wants to make some of its political contributions in California. I submitted a Form 410--Statement of Organization on June 21, 1989 on behalf of the PAC.

When we spoke last week, I was seeking counsel on interpretation of how the PAC can operate and comply with the new California requirements, as it operates as a federal PAC, receives contributions from employees all over the country, and makes contributions on a nationwide basis.

First, you explained that the requirement that every "officeholder, candidate and committee" must keep all campaign receipts in an account at a California bank or savings and loan and must make all campaign expenditures from that account (see, e.g., provision on Page 52 of the 1989 Information Manual) is not accurate to the extent it seems to apply to general purpose recipient committees. Instead, this requirement applies only to committees controlled by candidates.

Second, you explained that the requirement of maintaining two separate bank accounts for administrative/overhead expenses versus contributions (as explained on page 16 of the Interim Information

Manual on Propositions 68 and 73) is only voluntary, and affects only the limits of contributions received by the committee. If two separate accounts are maintained, contributors to the committee may make unlimited contributions to the administrative/overhead account while its contributions to the candidate account would be subject to campaign contribution limits. If the committee maintains only one account, all contributions it receives are subject to the contribution limits.

Third, you explained how a federal PAC such as ours could comply with the state laws on record-keeping and reporting obligations. Your law requires committees to track all contributions received and to report contributions from one source aggregating \$100 in a calendar year. You explained that federal reporting rules and forms may not be substituted for those required under California law. However, as your laws are aimed at political activity in California, your reporting requirements apply only to California contributions and expenditures. You explained that a PAC such as ours which makes contributions throughout the country and receives contributions from individuals across the nation may most simply comply with your reporting requirements by tracking contributions in one of two ways: (1) track only those contributions designated for California candidates, measures, or committees; or (2) determine the percentage of the PAC's total contributions which are made to California candidates, measures, or committees, and count only that percentage of each contributor's contributions toward his or her aggregate California contributions. For example, if our PAC made 10% of its total annual contributions to California candidates, measures, or committees, then we would count only 10% of each contributor's total contribution for record-keeping and reporting purposes under the Act. Our records would have to support such a determination and consequent calculations.

I appreciate your assistance in interpreting and applying the new legal requirements. Please let me know if my understanding as stated above needs to be clarified. I may be reached at the address on the letterhead above or by phone at 312-861-5944.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nanette H. Hoff".

Nanette H. Hoff
Counsel



California Fair Political Practices Commission

July 12, 1989

Nanette H. Hoff
Counsel
FMC Corporation
Executive Offices
200 East Randolph Drive
Chicago, IL 60601

Re: Letter No. 89-404

Dear Ms. Hoff:

We received your letter requesting confirmation of advice under the Political Reform Act on July 5, 1989. Your letter has been assigned to our Technical Assistance and Analysis Division for response. If you have any questions, you may contact that division directly at (916) 322-5901 [or 322-5662].

If the letter is appropriate for confirmation without further analysis, we will attempt to expedite our response. A confirming response will be released after it has gone through our approval process. If the letter is not appropriate for this treatment, the staff person assigned to prepare the response will contact you shortly to advise you. In such cases, the normal analysis, review and approval process will be followed.

You should be aware that your letter and our response are public records which may be disclosed to any interested person upon receipt of a proper request for disclosure.

Sincerely,

A handwritten signature in cursive script, reading "Kathryn E. Donovan".

Kathryn E. Donovan
General Counsel

KED:plh:confadv1